

IN THE CIRCUIT COURT OF MARION COUNTY,
DIVISION 2 AT HANNIBAL, MISSOURI

ANNA LEMON, KELLY STROUD)	
& JON CAPP)	
)	
Co-Petitioners)	
)	
vs.)	Case #
)	
HANNIBAL PUBLIC SCHOOL)	
DISTRICT 60, Board of Education)	
)	
MARK BROSS, Board President)	
LINDA CLARK, Board Member)	
CHRISTINA BOOTH, Board Member)	
JUSTIN PARKER, Board Member)	
MICHAEL HOLLIDAY, Board Member)	
BLANE MUNDLE, Board Member)	
J'NELLE LEE, Board Member)	
)	
HANNIBAL PUBIC SCHOOL)	
DISTRICT 60)	
)	
Respondents)	

PETITION FOR VIOLATION OF THE MISSOURI SUNSHINE LAW

COUNT I

Comes now Petitioners by and through counsel, and for their Petition, state as follows:

1. That Petitioners are all residents of and taxpayers in Hannibal, Missouri.
2. That Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education is a political subdivision of the State of Missouri, with it's primary offices in the City of Hannibal, Marion County, Missouri.
3. That Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60, is a political subdivision of the State of Missouri, with it's primary offices in the City of Hannibal,

Marion County, Missouri.

4. That Respondent MARK BROSS is the board president of HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education.
5. That Respondents MICHAEL HOLLIDAY, LINDA CLARK, CHRISTINA BOOTH, JUSTIN PARKER, BLANE MUNDLE and J'NELLE LEE, are all members of HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education.
6. That on February 20, 2019 a regular board meeting was held by HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education.
7. That the Agenda for the meeting was determined and set by staff and agents of HANNIBAL PUBLIC SCHOOL DISTRICT 60.
8. That the notice was prepared by, and all language contained therein was prepared by staff and agents of HANNIBAL PUBLIC SCHOOL DISTRICT 60.
9. That at said meeting the Board of Directors voted to change the date of graduation.
10. That pursuant to the provisions of RSMo 610.020 (1)
 1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting.
11. That attached hereto as Exhibit "1" is a copy of the notice which was posted by Respondent pursuant to RSMo 610.020(1)
12. That said notice clearly makes no reference to changing the date of graduation.
13. That as a result of the foregoing, any actions taken by Respondents in regard to changing the date of graduation were taken in violation of the Missouri Sunshine Law.

14. That alternatively, the notice states "2018-2019 School Calendar".
15. That however the "calendar" issue which was discussed was a single item in 2019, namely, changing the date of Graduation.
16. That Respondent's clear intent in placing the matter on the Agenda was to discuss changing the date of graduation.
17. That the language used by Respondents in the notice was not "reasonably calculated to advise the public" of the matters that were to be discussed.
18. That the intent of Respondents was to prevent public opposition to the actions taken.
19. That further, the intent of the parties was to avoid allowing public comment.
20. That in fact the public was prevented from commenting.
21. That as a result of the foregoing, any actions taken by Respondents in regard to changing the date of graduation were taken in violation of the Missouri Sunshine Law.
22. That RSMo 610.027(5) provides that
 5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken...
23. That changing the date of graduation is going to adversely affect Petitioner, Petitioner's daughter, and other affected taxpayers.
24. That at least 3 members of the graduating class, including Petitioner's daughter, who have enlisted in the Armed Services of the United States of America will be unable to participate in the graduation ceremony because of their prior commitment to the citizens of the United States.

25. That at least 2 members of the graduating class will be unable to have family members who are members of the United States armed services attend their graduation because they previously requested leave for the current date.
26. That multiple members of the graduating class will be unable to attend graduation because their alternative is the loss of prior vacations and flights which are non-refundable.
27. That Respondent's stated reason for changing the date is that if the date is left the same that the School District will lose \$47,000.00 in funding from the State of Missouri.
28. That however Petitioner and other affected parents have proposed a plan whereby Respondent could change certain vacation days and teachers meeting days to school days and avoid the need to change the date of graduation.
29. That while the loss of funds is certainly important, as an alternative means exists to avoid such loss and there is therefore no good cause for the date of graduation to be changed.
30. That as a result of the foregoing that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken by Respondents.

WHEREFORE, Petitioners request that pursuant to the provisions of RSMo 610.027(5), that the court find that Respondents violated the provisions of RSMo 610.010 to 610.026, that the court further find under the facts that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken, that the court order that the action therefore be voided and set aside, that the court order that Respondent pay the and for such other relief as the court deems meet and just.

COUNT II

31. Petitioners restate and re-allege paragraphs 1-30 as if restated fully herein.
32. That when petitioners and other affected parties discovered the actions of Respondents, they attempted to contact Board President Mark Bross to request that a special call meeting be held to allow the public to be in attendance and comment.
33. That despite his position as an elected representative of the people, Board President Mark Bross refused to answer phone calls from Petitioner and others.
34. That Board President Mark Bross followed this refusal by sending Petitioner Anna Lemon a private Facebook Message stating "I have nothing further to discuss on this issue so I will not be calling you or anyone else back".
35. That Board President Mark Bross further stated "the decision has been made".
36. The Respondent Mark Bross' replies indicate that he purposely violated Sections 610.010 to 610.026.
37. That alternatively The Respondent Mark Bross' replies indicate that he knowingly violated Sections 610.010 to 610.026.

WHEREFORE, Petitioners request that pursuant to the provisions of RSMo 610.027(4) or alternatively the provisions of RSMo 610.027(3) , that the court find that Respondent Mark Bross violated the provisions of RSMo 610.010 to 610.026, that the court further order that Respondent Mark Bross be ordered to pay a civil penalty up to \$5,000.00, that Respondent Mark Bross be ordered to pay all costs and reasonable attorney fees of Petitioners, and for such other relief as the court deems meet and just.

COUNT III

38. Petitioners restate and re-allege paragraphs 1-30 as if restated fully herein.
39. That per private message sent by Respondent Mark Bross, on February 22, 2019, he polled the board to determine whether a special meeting should be held.
40. That polling the board in such a situation to determine if a meeting should be held was conducting business on behalf of the government body.
41. That such polling was therefore an electronically held meeting.
42. That Respondent Mark Bross failed to post notice 24 hours prior to holding such meeting, and therefore violated the provisions of 610.010 to 610.026.
43. That Respondent Mark Bross failed to disclose to the public a method for attending such meeting, and the meeting was therefore a closed meeting.
44. That Respondent Mark Bross therefore further violated the provisions of 610.010 to 610.026.
45. Respondent Mark Bross purposely violated Sections 610.010 to 610.026.
46. That alternatively, Respondent Mark Bross knowingly violated Sections 610.010 to 610.026.

WHEREFORE, Petitioners request that pursuant to the provisions of RSMo 610.027(4) or alternatively the provisions of RSMo 610.027(3) , that the court find that Respondent Mark Bross violated the provisions of RSMo 610.010 to 610.026, that the court further order that Respondent Mark Bross be ordered to pay an additional civil penalty up to \$5,000.00, that Respondent Mark Bross be ordered to pay all costs and reasonable attorney fees of Petitioners, and for such other relief as the court deems meet and just.

COUNT IV

47. Petitioners restate and re-allege paragraphs 1-30 as if restated fully herein.
48. That by their actions as set out in Count I herein, Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60, purposely violated Sections 610.010 to 610.026.
49. That alternatively HANNIBAL PUBLIC SCHOOL DISTRICT 60 knowingly violated Sections 610.010 to 610.026.

WHEREFORE, Petitioners request that pursuant to the provisions of RSMo 610.027(4) or alternatively the provisions of RSMo 610.027(3) , that the court find that HANNIBAL PUBLIC SCHOOL DISTRICT 60 violated the provisions of RSMo 610.010 to 610.026, that the court further order that Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60 be ordered to pay a civil penalty up to \$5,000.00, that Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60 be ordered to pay all costs and reasonable attorney fees of Petitioners, and for such other relief as the court deems meet and just.

COUNT V

50. Petitioners restate and re-allege paragraphs 1-30 as if restated fully herein.
51. That by their actions as set out in Count I herein, Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education, knowingly violated Sections 610.010 to 610.026.

WHEREFORE, Petitioners request that pursuant to the provisions of RSMo 610.027(3) , that the court find that HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education violated the provisions of RSMo 610.010 to 610.026, that the court further order that Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60 , Board of Education be ordered to pay a civil penalty up to \$1,000.00, that Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60, Board of Education be ordered to pay all costs and reasonable attorney fees of Petitioners, and for such other relief as the court deems meet and just.

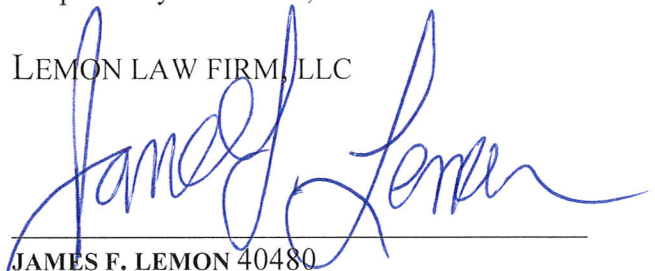
COUNT VI

52. Petitioners restate and re-allege paragraphs 1-30 as if restated fully herein.
53. That Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60 has publicly announced that the date of Graduation has been changed.
54. That at the meeting held February 20, 2019, Board Member J’Nelle Lee made a motion that graduation be left on the date currently set.
55. That a vote was held and that motion lost on a vote of 2 to 5, with J’Nelle Lee and Blaine Mundle voting in favor and all others voting against.
56. That no motion was made and no vote was taken to move the date of graduation at the said meeting in open session.
57. That further, no motion was made and no vote was taken to set the date of graduation on the date requested by Respondent HANNIBAL PUBLIC SCHOOL DISTRICT 60 at the said meeting in open session.
58. That there has been no notice filed of any other meeting with an agenda item of either moving the date of graduation, or alternatively “2018-2019 School Calendar” as Respondents allege was the appropriate notice.
59. That as a result of the foregoing, the sole place such vote could have been taken was in a secret closed session meeting in violation of RSMo 610.010 to 610.026.
60. That for all of the reasons set out in Count I as well as herein, the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken by Respondents.

WHEREFORE, Petitioners request that the court find that Respondents violated the provisions of RSMo 610.010 to 610.026, that the court further find under the facts that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken, that the court order that the action therefore be voided and set aside, that the court order that Respondent pay the and for such other relief as the court deems meet and just.

Respectfully submitted,

LEMON LAW FIRM, LLC



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ATTORNEY FOR PETITIONER

NOTICE OF OPEN PUBLIC MEETING

Section 610.020
Revised Statutes
of Missouri

Board of Education of the Hannibal School District

Notice is hereby given that an open public session of the Board of Education of the Hannibal School District will be held at the place, on the time set forth below, to wit;

PLACE: Administrative Office
DATE: Wednesday, February 20, 2019
TIME: 7:00 p.m. – Regular Board of Education meeting

The tentative agenda for such open public session is attached. Representatives of the news media may obtain copies of this notice by contacting:

NAME: Martha Astorino, Secretary to Superintendent
ADDRESS: 4650 McMasters Avenue
TELEPHONE: 573-221-1258



Secretary of the Board of Education

February 12, 2019 – 12:00 p.m.
Date and time Notice Was Posted

Agenda for February 20, 2019

- I. Consent Agenda
- II. Administrator/Director Reports
- III. Patron Comments
- IV. Report from the Administration and/or board discussion
- V. Meeting Dates
- VI. Old Business
- VII. New Business
- VIII. Adjournment
- IX. Executive Session

HANNIBAL PUBLIC SCHOOLS

Hannibal, Missouri

February 20, 2019

The following items of business should be considered at the regular meeting of the Board of Education Wednesday, February 20, 2019 at 7:00 p.m. at the Administrative Offices, 4650 McMasters Avenue.

- I. Consent Agenda
 - A. Approval of Agenda
 - B. Approval of Minutes
 1. Regular Board of Education meeting, Wednesday, January 16, 2019
 2. Executive Board of Education meeting, Wednesday, January 16, 2019
 3. Capital Projects Board Work Session meeting, Tuesday, February 5, 2019
 4. A.D. Stowell Elementary PLC Luncheon, Monday, February 11, 2019
 - C. Approval of Finance Report
 1. Approval of bills for payment
 2. Financial reports for January
 - D. Approval of grants
 - E. Changes in teaching personnel
 - F. Changes in support services personnel
 - G. Support services report
 - H. Attendance
- II. Administrator/Director Reports
 - A. Brooke Kelly, Veterans Elementary Principal
 - B. Eric Skeen, Director of Maintenance
- III. Patron Comments (Board Policy 2.2) During the patron comment portion of the agenda, patrons may address the board on those items that are specific to the approved agenda or who have properly requested to appear before the Board of Education.
- IV. Report from the Administration and/or board discussion:
 - A. Bond Issue Update
 - B. Energy Education update
 - C. Program evaluations (Facilities & Safety)
 - D. Legislative Report
 - E. Insurance
 - F. Summer School
 - G. 2019-2020 School Calendar
- V. Meeting Dates:
 - A. Regular Board of Education Meeting – Wednesday, March 20, 2019 - 6:00 p.m. – Administrative Offices
 - B. MSBA Spring Regional Meeting – Monday, April 15, 2019 – 5:45 p.m. – Palmyra School District
 - C. Set re-organization meeting
 - D. Bond Issue Kick-Off Meeting – TBD
- VI. Old Business:
 - A. School Bus Financing
- VII. New Business:
 - A. 2018-2019 School Calendar
- VIII. Adjournment
- IX. Executive session - closed session for the purpose of discussing legal actions, causes of action or litigation; hiring, firing, disciplining or promoting of particular employees; individually identifiable personnel records performance ratings or records pertaining to employees or applicants; and records protected by law as provided by Section 610.021 paragraphs (1), (3), (13), and (14) of the Missouri Revised Statutes.